IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 9120
Application of:
John C. Goodwin III et al. Art Unit: 2674
Serial No.: 09/727,290 Examiner: A. Abdulselam
Filed: November 29, 2000
For: METHOD OF DISPLAYING INFORMATION BY A NETWORK KIOSK

MS Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellants have filed a timely Notice of Appeal from the action of the Examiner, dated March 6, 2006, finally rejecting all of the claims in the present application.

(i) REAL PARTY IN INTEREST

The real party in interest is NCR Corporation.

(ii) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

(iii) STATUS OF THE CLAIMS

Claims 1-8 are pending in the application.

Claims 1-8 stand rejected under 35 USC 102(b), as anticipated by Cragun (5,504,675).

(iv) STATUS OF AMENDMENTS

Appellants did not file a Response subsequent to the Final Rejection.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1-4 relate to a method of displaying information by a network kiosk.

As embodied in claim 1, the invention includes

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk (Page 6, line 9, 26-27; Fig. 3);

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to attempt to persuade the person to approach and use the kiosk (Page 5, line 12-16; Page 7, lines 1-2; Fig. 3);

timing a time period of displaying the first information (Page 7, lines 3-4; Fig. 3); and

displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

As embodied in claim 2, the invention includes

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk (Page 6, line 9, 26-27; Fig. 3);

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk (Page 5, line 12-16; Page 7, lines 1-2; Fig. 3);

timing a time period of displaying the first information (Page 7, lines 3-4; Fig. 3); and

displaying second information which is less distinctive than the first information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

As embodied in claim 3, the invention includes

displaying first information by a display of the kiosk (Page 5, lines 7-11; Page 7, lines 20-22; Fig. 3);

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk (Page 6, line 9, 26-27; Fig. 3);

displaying second information which is more distinctive than the first information by the display in response to said sensing step to attract attention of the person to the second information of the display and to persuade the person to approach and use the kiosk (Page 5, line 12-16; Page 7, lines 1-2; Fig. 3);

timing a time period of displaying the second information (Page 7, lines 3-4; Fig. 3); and

displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

As embodied in claim 4, the invention includes

displaying first information by a display of the kiosk (Page 5, lines 7-11; Page 7, lines 20-22; Fig. 3);

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk (Page 6, line 9, 26-27; Fig. 3);

determining second information for display by the display which is more distinctive than the first information in response to said sensing step (Page 6, lines 28-30; Fig. 3);

wherein the second information attracts attention of the person to the second information of the display and to persuade the person to approach and use the kiosk (Page 5, lines 12-16);

displaying the second information by the display (Page 7, lines 1-2; Fig. 3);

timing a time period of displaying the second information to wait for the person to operate the kiosk (Page 7, lines 5-13; Fig. 3);

determining third information for display which is less distinctive than the second information when the person is no longer within the predetermined distance of the kiosk and the time period has expired (Page 7, lines 17-19; Fig. 3); and

displaying the third information by the display (Page 7, lines 20-22; Fig. 3).

Claims 5-7 relate to a network kiosk.

As embodied in claim 5, the invention includes

a display for displaying information (Page 5, lines 7-18; Fig. 1);

a proximity sensor (Page 6, lines 9-12; Fig. 1); and

a computer (page 3, line 16; Fig. 1) which senses a person passing within a predetermined distance of the kiosk (Page 6, line 9, 26-27; Fig. 3), displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk (Page 5,

line 12-16; Page 7, lines 1-2; Fig. 3), times a time period of displaying the first information (Page 7, lines 3-4; Fig. 3), and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk within the time period (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

As embodied in claim 6, the invention includes

a display for displaying information (Page 5, lines 7-18; Fig. 1);

a proximity sensor (Page 6, lines 9-12; Fig. 1); and

a computer (page 3, line 16; Fig. 1) which senses a person passing within a predetermined distance of the kiosk (Page 6, line 9, 26-27; Fig. 3), displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk (Page 5, line 12-16; Page 7, lines 1-2; Fig. 3), times a time period of displaying the first information (Page 7, lines 3-4; Fig. 3), and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk and the time period has expired (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

As embodied in claim 7, the invention further includes

wherein the proximity sensor comprises an ambient light sensor which senses a drop in ambient light when the person is within the predetermined distance (Page 6, lines 9-12).

Claim 8 relates to a method of attracting a person to a network kiosk.

As embodied in claim 8, the invention includes

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk (Page 6, line 9, 26-27; Fig. 3);

displaying first information and playing a sound in response to said sensing step to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk (Page 5, line 12-16; Page 7, lines 1-2; Fig. 3);

timing a time period of displaying the first information and playing the sound (Page 7, lines 3-4; Fig. 3); and

displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period (Page 5, lines 7-11; Page 7, lines 17-19; Fig. 3).

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 1-8 are anticipated under 35 USC 102(b) by Cragun (5,504,675).

(vii) ARGUMENT

Cragun discloses a method and apparatus for automatic selection and presentation of sales promotion programs. Cragun discloses a neural network for selecting a sales promotion program. The apparatus first detects whether a person is in the area, and then either selects a general attract loop sales promotion program if no person is detected or selects a specific loop sales promotion program if at least one person is detected in the immediate area and has not touched a touch screen within a predetermined time

period of the person being detected (Fig. 4). The sales promotion program may include sound or multimedia.

THE REJECTION OF CLAIMS 1-8 UNDER 35 U.S.C. §102(b) IS IMPROPER BECAUSE CRAGUN FAILS TO TEACH EACH AND EVERY ELEMENT OF APPELLANTS' CLAIMS.

To establish anticipation, the Office has the burden of showing that the reference teaches each and every element of a claim (MPEP §2131).

The teachings of Cragun may be easily compared to Appellants' claims by referring to Fig. 4 and the accompanying description in Column 5.

With respect to claim 1, Cragun fails to disclose

displaying first information in response *to* said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to attempt to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period.

With respect to claim 2, Cragun fails to disclose

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

With respect to claim 5, Cragun fails to disclose

a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk within the time period.

With respect to claim 6, Cragun fails to disclose

a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

Cragun fails to teach, "displaying first information *in response to* said sensing step ..." (Emphasis added). In response to sensing step 102, Cragun performs step 112 to

look for a touch. Only if there was no touch does Cragun display information in step 114.

Cragun fails to teach, "timing a time period of displaying the first information". Following step 114, Cragun determines whether someone is still in the vicinity of the kiosk in step 116. There is no timing associated with the display of best pitch information identified in step 114.

Cragun fails to teach, "displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period" (claims 1, 5) or if "the time period has expired" (claims 2, 6). If someone is no longer in the vicinity of the kiosk as determined in step 116, then operation returns to step 102, after which step 104 requires displaying of second information based upon lack of someone in the proximity of the kiosk, not expiration of a time period following lack of use.

With respect to claim 3, Cragun fails to disclose

displaying second information which is more distinctive than the first information by the display in response to said sensing step to attract attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the second information; and

displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

With respect to claim 4, Cragun fails to disclose

determining second information for display by the display which is more distinctive than the first information in response to said sensing step;

… ;

timing a time period of displaying the second information to wait for the person to operate the kiosk;

determining third information for display which is less distinctive than the second information when the person is no longer within the predetermined distance of the kiosk and the time period has expired;

Cragun fails to teach, "displaying second information *in response to* said sensing step …" (Emphasis added). In response to sensing step 102, Cragun performs step 112 to look for a touch. Only if there was no touch does Cragun display information in step 114.

Cragun fails to teach, "timing a time period of displaying the second information". Following step 114, Cragun determines whether someone is still in the vicinity of the kiosk in step 116. There is no timing associated with the display of best pitch information identified in step 114.

Cragun fails to teach, "displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired" (claim 3) or "determining third information for display which is less distinctive than the second information when the person is no longer within the predetermined distance of the kiosk and the time period has expired" (claim 4). If someone is no longer in the vicinity

of the kiosk as determined in step 116, then operation returns to step 102, after which step 104 requires displaying of second information based upon lack of someone in the proximity of the kiosk, not expiration of a time period following lack of use.

With respect to claim 7, Cragun fails to disclose

wherein the proximity sensor comprises an ambient light sensor which senses a drop in ambient light when the person is within the predetermined distance.

Cragun teaches microwave and infrared sensors.

With respect to claim 8, Cragun fails to disclose

displaying first information and playing a sound in response to said sensing step to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information and playing the sound; and

displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period.

Cragun fails to teach, "displaying first information and playing a sound in response to said sensing step". In response to sensing step 102, Cragun performs step 112 to look for a touch. Only if there was no touch does Cragun display information in step 114.

Cragun fails to teach, "timing a time period of displaying the first information and playing the sound".

Following step 114, Cragun determines whether someone is still in the vicinity of the kiosk in step 116. There is no timing associated with the display of best pitch information identified in step 114.

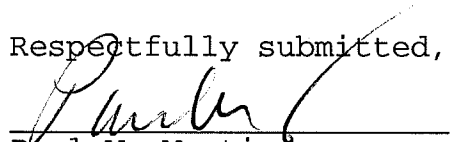
Cragun fails to teach, "displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period". If someone is no longer in the vicinity of the kiosk as determined in step 116, then operation returns to step 102, after which step 104 requires displaying of second information based upon lack of someone in the proximity of the kiosk, not expiration of a time period following lack of use.

CONCLUSION

Appellants respectfully submit that the Examiner has failed to establish anticipation and that the rejection of claims 1-8 is improper.

Appellants further submit that claims 1-8 are allowable and respectfully request that the rejection of claims 1-8 by the Examiner be reversed by the Board.

Respectfully submitted,



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(viii) CLAIMS APPENDIX

1. A method of displaying information by a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to attempt to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period.

2. A method of displaying information by a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

3. A method of displaying information by a network kiosk comprising the steps of:

displaying first information by a display of the kiosk;

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying second information which is more distinctive than the first information by the display in response to said sensing step to attract attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the second information; and

displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

4. A method of displaying information by a network kiosk comprising the steps of:

displaying first information by a display of the kiosk;

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

determining second information for display by the display which is more distinctive than the first information in response to said sensing step;

wherein the second information attracts attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

displaying the second information by the display;

timing a time period of displaying the second information to wait for the person to operate the kiosk;

determining third information for display which is less distinctive than the second information when the person is

no longer within the predetermined distance of the kiosk and the time period has expired; and

displaying the third information by the display.

5. A network kiosk comprising:

a display for displaying information;

a proximity sensor; and

a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk within the time period.

6. A network kiosk comprising:

a display for displaying information;

a proximity sensor; and

a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

7. The network kiosk as recited in claim 6, wherein the proximity sensor comprises an ambient light sensor which

senses a drop in ambient light when the person is within the predetermined distance.

8. A method of attracting a person to a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information and playing a sound in response to said sensing step to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information and playing the sound; and

displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period.

(ix) EVIDENCE APPENDIX

No evidence pursuant to §§1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner or relied upon by Appellant.

(x) RELATED PROCEEDINGS APPENDIX

There are no related decisions rendered by a court or the Board or copies of such decisions.